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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/700,400

11/04/2003

Peter A. Quigley

FPY-048.04

5827

51414 7590 03/30/2007

GOODWIN PROCTER LLP  
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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

03/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/700,400

Applicant(s)

QUIGLEY ET AL.

Examiner

Elizabeth M. Cole

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-60 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-37 is/are allowed.
- 6) ☒ Claim(s) 38-60 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

Art Unit: 1771

1. Claims 38-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomeer et al, U.S. Patent No. 5,828,003 in view Charboneau, U.S. Patent No. 5,551,484. Thomeer discloses a composite tubing which can be coiled, (i.e., spoolable) which comprises an inner layer which corresponds to the claimed impervious layer, fiber reinforced composite layers wherein at least one of the layers comprises fibers which are wrapped circumferentially around the longitudinal axis of the tubing, and fibers which are formed about the longitudinal axis of the tube by braiding, so that the fibers are directed clockwise, counter clockwise and radially, and fiber which are formed by weaving at a 45 degree angle which would correspond to the claimed helical fibers. See col. 7, lines 12-27, and figure 6a showing woven fiber layer 79 which is at angle of about 45 degrees. The claims do not require that the helical fibers be interwoven with the clockwise or counterclockwise fibers. See figures 6a-6d. The tubing can further comprise conductive wires located within the tubing which are able to communicate at various locations on the tubing. See col. 8, lines 48-52. Thomeer differs from the claimed invention because it does not disclose that the tubing comprises a sensor. Charboneau discloses a lining for pipelines which may include an optical fibers which is in the liner for purposes of monitoring stress or for communication, and which further comprises a capacitance leak detection circuit in the liner. Charboneau teaches that the optical fibers can be connected to a stress detector to monitor the liner when it is installed in a pipeline. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated optical fibers for the purpose of monitoring stresses in the tubular member of Thomeer et al, motivated by the

Art Unit: 1771

expectation that this would enable pipelines which employed the liners to be monitored for possible problems.

2. Applicant's arguments filed 1/12/07 have been fully considered but they are not persuasive. Applicant argues that the sensor of Charboneau is attached to the outside wall of the tube. However, the claims do not recite where the sensor is coupled to the tube and therefore applicant is arguing a limitation which is not in the claims. Applicant argues that Charboneau does not teach a spoolable tube. However, Thomeer teaches this feature. Charboneau is relied on only for the teaching of employing a sensor in order to monitor liners when they are installed in a pipeline.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

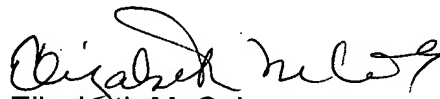
Art Unit: 1771

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.



Elizabeth M. Cole  
Primary Examiner  
Art Unit 1771

e.m.c